

State Law Library of Montana
MONTANA LEGISLATIVE HISTORY

Chapter 620 Session L 1991
Bill House _____ Senate 299

History and final status sheet X
Introduced bill X
Fiscal note NA
Third reading bill X
Final version of bill X

House Committee on Taxation

Hearing date(s)* 4-4

Executive action (vote) date(s)* 4-4

Comm. Report 4-4

Floor 2nd reading & vote 4-11

Floor 3rd reading & vote 4-12

Senate Committee on Taxtion

Hearing date(s)* 2-19 2-20

Executive action (vote) date(s)* 2-20

Comm. Report 2-20

Floor 2nd reading & vote 2-21

Floor 3rd reading & vote 2-22

Conference or Free Conference Comm. _____ Yes X No

Hearing date(s)* _____

Executive action (vote) date(s)* _____

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? _____ Yes X No

Committee _____ Report _____

NOTES: Revise Interlocutory Adjudication of an Appeal Pending Before State
Tax Appeal Board



Compiled by: rg

Date: 3-16-2016

SB 299 INTRODUCED BY HALLIGAN

REVISE INTERLOCUTORY ADJUDICATION OF AN APPEAL
PENDING BEFORE THE STATE TAX APPEAL BOARD

2/06	INTRODUCED		
2/07	REFERRED TO TAXATION		
2/07	FIRST READING		
2/19	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED		
2/21	2ND READING PASSED	49	0
2/22	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO TAXATION		
4/04	HEARING		
4/04	COMMITTEE REPORT—BILL CONCURRED		
4/11	2ND READING CONCURRED	92	4
4/12	3RD READING CONCURRED	95	3
	RETURNED TO SENATE		
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/20	TRANSMITTED TO GOVERNOR		
4/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 620		
		EFFECTIVE DATE: 10/01/91	

SB 300 INTRODUCED BY PINSONEAULT, ET AL.

GENERALLY REVISE THE LAWS GOVERNING DANGEROUS DRUGS

2/06	INTRODUCED		
2/07	REFERRED TO JUDICIARY		
2/07	FIRST READING		
2/22	HEARING		
2/23	TABLED IN COMMITTEE		
4/03	TAKEN FROM TABLE		
4/04	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/05	2ND READING PASSED	42	5
4/06	3RD READING PASSED	47	1
	TRANSMITTED TO HOUSE		
4/19	MOTION FAILED TO SUSPEND RULES TO ACCEPT BILL FROM SENATE AFTER THE TRANSMITTAL DEADLINE	47	50
	DIED IN PROCESS (FAILED TO MEET TRANSMITTAL DEADLINE)		

SB 301 INTRODUCED BY BLAYLOCK, ET AL.

ALLOW FORMER LEGISLATORS, EMPLOYEES, & OFFICIALS TO
REMAIN IN HEALTH PLAN

2/06	INTRODUCED		
2/07	REFERRED TO STATE ADMINISTRATION		
2/07	FIRST READING		
2/07	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/13	FISCAL NOTE PRINTED		
2/14	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED		
2/16	2ND READING PASSED	47	1
2/18	3RD READING PASSED	48	1
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO STATE ADMINISTRATION		
3/13	HEARING		
3/13	TABLED IN COMMITTEE		
3/19	TAKEN FROM TABLE		

2

1 *Senate* BILL NO. *299*
 2 INTRODUCED BY *Hollis*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
 5 PROCEDURE FOR AN INTERLOCUTORY ADJUDICATION OF AN APPEAL
 6 PENDING BEFORE THE STATE TAX APPEAL BOARD; AND AMENDING
 7 SECTIONS 15-2-304 AND 15-2-305, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 15-2-304, MCA, is amended to read:

11 "15-2-304. Petition for interlocutory adjudication.

12 (1) (a) Either party, within 30 days of the filing of an
 13 answer to an appeal before the state tax appeal board, may
 14 file a petition for an interlocutory adjudication under
 15 15-2-305. The petition may be filed with the district court:

16 (i) in the first judicial district;

17 (ii) in the county in which the taxable property is
 18 located; or

19 (iii) in cases not involving property taxes, in the
 20 county where the taxpayer resides or has his principal place
 21 of business in the state.

22 (b) The petition ~~must~~ may raise ~~all~~ any
 23 question involving procedure, the admissibility of evidence,
 24 or a substantive question of law raised by the pleadings
 25 ~~involving the interpretation of a constitutional provision;~~

1 ~~a statute, or a rule~~ within 30 days of filing an answer to
 2 the appeal with the state tax appeal board.

3 (c) A nonpetitioning party shall respond to the
 4 petition within 30 days after service of the petition. The
 5 response may raise any question not raised in the petition
 6 involving procedure, the admissibility of evidence, or a
 7 substantive question of law.

8 (2) ~~After a proceeding has commenced before the state~~
 9 ~~tax appeal board~~ the 30-day period specified in subsection
 10 (1)(b) but before arguments have been heard, the parties to
 11 the proceeding may jointly petition a district court to make
 12 an interlocutory adjudication as provided under 15-2-305. A
 13 petition for ~~such an~~ adjudication shall must be signed by
 14 each party to the proceeding.

15 (3) In a petition under subsection (1) or (2), one
 16 party ~~shall~~ must be designated as the petitioner and every
 17 other party ~~shall~~ must be designated a respondent. The court
 18 may in its discretion grant ~~such a~~ petition if it appears
 19 that the issues presented involve ~~the interpretation of a~~
 20 ~~constitutional provision, a statute, or a rule~~ procedure,
 21 the admissibility of evidence, or a substantive question of
 22 law and do not require the ~~hearing of evidence to be~~
 23 ~~resolved~~ determination of questions of fact and that the
 24 controversy would be more expeditiously resolved by ~~such an~~
 25 adjudication. If the court grants a petition, it shall rule

1 on all issues presented in the petition and the response,
2 regardless of whether a ruling on less than all of the
3 issues is dispositive of the case."

4 **Section 2.** Section 15-2-305, MCA, is amended to read:

5 "15-2-305. Jurisdiction to make interlocutory
6 adjudication. A district court may make an interlocutory
7 adjudication of an issue pending in before the state tax
8 appeal board if that issue involves ~~only the~~ interpretation
9 ~~of a constitutional provision, statute, or regulation~~
10 procedure, the admissibility of evidence, or a substantive
11 question of law and does not require the ~~hearing of evidence~~
12 determination of a question of fact. If the petition is
13 granted, the district court shall rule on all issues
14 presented in the petition and the response, regardless of
15 whether a ruling on less than all of the issues is
16 dispositive of the case. Appeals from the ruling of the
17 court may be appealed as in other civil actions."

-End-

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on February 19, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 294

Presentation and Opening Statement by Sponsor:

Senator Doherty, District 20, said the bill allows local governments to impose an additional 2% on the lodging tax for maintenance, construction, or purchase of tourist related facilities. Great Falls attempted to pass a bond issue last fall to do major renovations at the fair grounds and build a major multi-purpose sports and entertainment center. The complaints from people on a fixed income were to the effect that the only people that would make any money from the bond issue passing were the motel and restaurant/bars. The motel owners felt they could make a contribution and the solution seemed to be the addition of the 2% local option tax. He said the bill needs to be amended in section 2(b) to include a vote of the people instead of a public

Senator Gage responded that is an "if" question. The voted levies will continue to be included in the school distribution. If the other taxing jurisdictions raise their millages, they will continue to get a larger share of the distribution based on how much they increase the mills. Oil and gas production has a bearing on the millages, also.

Closing by Sponsor:

Senator Gage closed by saying the bill deals with old oil only. The new oil is still distributed to the foundation program on the basis of the new 40 mills. This is a depleting asset and ultimately there will be no more old oil so this formula will eventually drop out of the tax revenue of the affected areas. This bill corrects more problems than it creates. The stricken language on page 6 is eliminated since the distributions will no longer be based on the prior year mills. He urged the committee to give favorable consideration to the bill.

HEARING ON SENATE BILL 299

Presentation and Opening Statement by Sponsor:

Senator Halligan, District 29, said the bill has been introduced at the request of Ward Shanahan and those people who regularly deal with the State Tax Appeals Board. It clarifies and expands the ability to deal with issues that should go to the district court Judge. Instead of a question of interpretation of constitutional law the party can go before the district court in an interlocutory appeal prior to any decision by the State Tax Appeal Board. It is an important clean up provision in that parties before the State Tax Appeal Board would have to wait until the STAB decision was made, then go to district court, and then go back to STAB. This way, there can be a disposition of the issues of admissability of evidence, procedures, or statutory interpretation prior to any decision by STAB.

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, Department of Revenue, said he had worked with Mr. Shanahan on the bill. The original concept was passed in 1987, but has never worked well. He said this bill cleans it up and clarifies the procedures.

Tom Ebzery, NERCO, said the bill clarifies the issue of either party being able to come in. His clients had to go back to STAB even though they had been to district court.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe asked if the bill broadens the base of appeal.

Mr. Woodgerd responded said the main problem was on page 1, line 22, in that the petition "must" raise all the questions. Cases were denied on that issue. The bill changes the "must" to "may" which should solve the problem.

Senator Harp asked the Chairman of the State Tax Appeal Board to respond.

John McNaught, Chairman, said the Board has taken a neutral position on the bill. He said the Board proved in the case of HB 703 that they are capable of answering questions of law. Their decisions in that case were upheld by the Montana Supreme Court. He said the bill would speed up the process.

Senator Doherty asked if the District Court could be made to rule on all the issues.

Mr. Woodgerd responded the concept is to try and make sure the legal questions are out of STAB and into District Court for a ruling. The bill indicates the intent which is to get the Court to rule on the legal issues if at all possible.

Senator Towe was concerned that some legal issues may or may not develop depending on how the facts develop as the case proceeds. It may not be possible to answer all the legal questions at one time.

Senator Towe said the "shall" language obligates the judge to rule on everything. He suggested the language "ready for ruling" be inserted on page 3, line 1, following "issues".

Closing by Sponsor:

Senator Halligan closed.

EXECUTIVE ACTION ON SENATE BILL 345

Discussion:

Senator Towe asked for a side by side comparison of the two different formulas and what happens as one year passes into the next.

Mr. Adams said he would get that information to the committee as soon as possible.

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/19/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	✓		
SEN. ECK	✓		
SEN. BROWN	✓		
SEN. DOHERTY	✓		
SEN. GAGE	✓		
SEN. HARP	✓		
SEN. KOEHNKE	✓		
SEN. THAYER	✓		
SEN. TOWE	✓		
SEN. VAN VALKENBURG	✓		
SEN. YELLOWTAIL	✓		

Each day attach to minutes.

DATE 8/19/91

COMMITTEE ON TAXATION

5B 244 5/3 244 5B

VISITORS' REGISTER

[illegible]

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on February 20, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)

Members Excused:

Bill Yellowtail (D)

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 341

Presentation and Opening Statement by Sponsor:

Senator Gage, District 5, said the bill allows a taxpayer to deduct business deductions that were reduced by a federal tax credit in determining adjusted gross income. This bill states if the federal credit causes a person to lose a deduction in some manner, that credit can be added back to the deduction for state tax purposes. The said this is a basic fairness issue.

Proponents' Testimony:

Mike Lopach, President and General Manager, Galusha, Higgins, and Galusha, Helena, said taxpayers are losing deductions that they should be allowed on their state tax returns under the interpretation of the law by the Department of Revenue. Montana gives no credit and, in fairness, the bill should be passed.

Questions from Committee Members:

There ensued a discussion of the training provided by DOR and the costs of that training.

Senator Thayer asked for clarification of the time period "within one year".

Senator Brown said he intends for the year to begin following the effective date which is October, 1991. That would, in effect, give Mr. McNaught 18 months in which to complete his training.

Closing by Sponsor:

Senator Brown closed by saying, as a practical matter, it may not be feasible to county tax appeal boards to attend training. However, it is in the public interest for the STAB members to be trained. He said the bill should be changed to reflect the training should be completed within a year from the effective date if a member was appointed to STAB before October, 1991, effective date.

EXECUTIVE ACTION ON SENATE BILL 375

Amendments, Discussion, and Votes:

Senator Towe moved to amend the bill on page 2, line 12, as per amendments on the attached standing committee report.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Towe moved SB 375 Do Pass As Amended.

The motion CARRIED unanimously with Senators Gage and Yellowtail excused.

EXECUTIVE ACTION ON SENATE BILL 299

Discussion:

Senator Halligan asked Ward Shanahan if he would offer his explanation of SB 299.

Mr. Shanahan said the bill was prepared at the request of a joint lawyer-cpa committee on taxation and was drafted by Paul Vantricht of the Department of Revenue. It was drafted in an attempt to get legal questions decided before going through the State Tax Appeal Board process. The STAB has no judicial powers to decide questions of procedure, questions of evidence, or statutory validity. Those questions could be dispositive of the case and either the DOR or the taxpayer should have an opportunity to get the legal questions answered in District Court before they had to go through the entire evidentiary hearing before STAB. There was only one area of disagreement, that being the ruling by DOR that all questions must be decided in order to avoid repeated trips to court on various legal issues.

Senator Harp said he felt this bill is in the wrong committee. It seems to be a Judiciary Committee issue.

Recommendation and Vote:

Senator Harp moved SB 299 Do Pass.

The motion CARRIED with Senators Yellowtail and Halligan excused.

EXECUTIVE ACTION ON SENATE BILL 390

Amendments, Discussion, and Votes:

Senator Van Valkenburg presented proposed amendments to the bill (Exhibit #3). The amendments address the issue of the taxpayer putting new property back into place before the end of the tax year using the insurance proceeds.

Recommendation and Vote:

Senator Eck moved SB 390 Do Pass.

Senator Gage said he had a question re the insurance settlement exchanging personal property for cash. He said if the owner received the insurance he should not be harmed as far as value other than the inconvenience caused by the damage and receiving less than the value amount from the insurance.

-

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/20/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL			X

Each day attach to minutes.

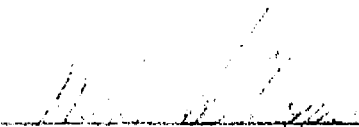
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 20, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 299 (first reading copy -- white), respectfully report that Senate Bill No. 299 do pass.

Signed: 
Mike Halligan, Chairman

191 2-22-91
And. Coord.

OB 2-22-91
Sec. of Senate

Nays: Aklestad, Beck, Blaylock, Devlin, Farrell, Fritz, Gage, Grosfield, Hager, Hammond, Harding, Harp, Jacobson, Jergeson, Lynch, Nathe, Swift, Thayer, Tveit, Waterman, Mr. President.
Total 21

Absent or not voting: Franklin, Stimatz, Williams.
Total 3

Excused: Manning, Yellowtail.
Total 2

SB 422 - Senator Vaughn moved that SB 422 do pass. Motion carried unanimously.

SB 440 - Senator Bengtson moved that SB 440 do pass. Motion carried unanimously.

SB 444 - Senator Pinsoneault moved that SB 444 do pass. Motion carried unanimously.

SB 206 - Senator Halligan moved that SB 206 be amended as follows:

1. Page 3, line 1.

Following: "THE PROPOSED USE IS"

Strike: "SIGNIFICANTLY"

Insert: "substantially"

Amendment adopted unanimously.

Senator Halligan moved that SB 206, as amended, do pass. Motion carried unanimously.

SB 280 - Senator Brown moved that SB 280 do pass. Motion carried unanimously.

SB 299 - Senator Halligan moved that SB 299 do pass. Motion carried unanimously.

SB 319 - Senator Grosfield moved that SB 319 do pass. Motion carried unanimously.

SB 375 - Senator Brown moved that SB 375 do pass. Motion carried unanimously.

SB 390 - Senator Van Valkenburg moved that SB 390 do pass. Motion carried unanimously.

Senator Van Valkenburg moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Mazurek presiding. Chairman Harp moved the adoption of the committee report. Report adopted.

3rd Reading

Absent or not voting: None.
Total 0

Excused: Manning.
Total 1

SB 291 passed by the following vote:

Yeas: Aklestad, Anderson, Beck, Bengtson, Bianchi, Blaylock, Brown, Bruski, Crippen, Doherty, Eck, Franklin, Fritz, Gage, Grosfield, Hager, Halligan, Hammond, Harp, Hockett, Jacobson, Jergeson, Keating, Kennedy, Koehnke, Lynch, Noble, Pinsonneault, Pipinich, Rea, Rye, Stimatz, Svrcek, Swift, Thayer, Towe, Van Valkenburg, Vaughn, Waterman, Weeding, Williams, Yellowtail, Mr. President.
Total 43

Nays: Burnett, Devlin, Farrell, Harding, Nathe, Tveit.
Total 6

Absent or not voting: None.
Total 0

Excused: Manning.
Total 1

SB 297 passed by the following vote:

Yeas: Aklestad, Anderson, Beck, Bengtson, Bianchi, Blaylock, Brown, Bruski, Burnett, Crippen, Devlin, Doherty, Eck, Farrell, Franklin, Fritz, Gage, Grosfield, Hager, Halligan, Hammond, Harding, Harp, Hockett, Jacobson, Jergeson, Keating, Kennedy, Koehnke, Lynch, Nathe, Noble, Pinsonneault, Pipinich, Rea, Rye, Stimatz, Svrcek, Swift, Thayer, Towe, Tveit, Van Valkenburg, Vaughn, Waterman, Weeding, Williams, Yellowtail, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Manning.
Total 1

SB 299 passed by the following vote:

Yeas: Aklestad, Anderson, Beck, Bengtson, Bianchi, Blaylock, Brown, Bruski, Burnett, Crippen, Devlin, Doherty, Eck, Farrell, Franklin, Fritz, Gage, Grosfield, Hager, Halligan, Hammond, Harding, Harp, Hockett, Jacobson, Jergeson, Keating, Kennedy, Koehnke, Lynch, Nathe, Noble, Pinsonneault, Pipinich, Rea, Rye, Stimatz, Svrcek, Swift, Thayer, Towe, Tveit,

Van Valkenburg, Vaughn, Waterman, Weeding, Williams, Yellowtail, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Manning.
Total 1

SB 308 passed by the following vote:

Yeas: Aklestad, Anderson, Beck, Bengtson, Bianchi, Blaylock, Brown, Bruski, Crippen, Devlin, Doherty, Eck, Farrell, Franklin, Fritz, Gage, Grosfield, Hager, Halligan, Hammond, Harding, Harp, Hockett, Jacobson, Jergeson, Keating, Kennedy, Koehnke, Lynch, Nathe, Noble, Pinsonneault, Pipinich, Rea, Rye, Stimatz, Svrcek, Swift, Thayer, Towe, Tveit, Van Valkenburg, Vaughn, Waterman, Weeding, Williams, Yellowtail, Mr. President.
Total 48

Nays: Burnett.
Total 1

Absent or not voting: None.
Total 0

Excused: Manning.
Total 1

SB 311 passed by the following vote:

Yeas: Aklestad, Anderson, Beck, Bengtson, Bianchi, Blaylock, Brown, Bruski, Burnett, Crippen, Devlin, Doherty, Eck, Farrell, Franklin, Fritz, Gage, Grosfield, Hager, Halligan, Hammond, Harding, Harp, Hockett, Jacobson, Jergeson, Keating, Kennedy, Koehnke, Lynch, Nathe, Noble, Pinsonneault, Pipinich, Rea, Rye, Stimatz, Svrcek, Swift, Thayer, Towe, Tveit, Van Valkenburg, Vaughn, Waterman, Weeding, Williams, Yellowtail, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Manning.
Total 1

CHAIRMAN--DAN HARRINGTON
NORMAL SCHEDULE==> SITE: ROOM 437

DAYS: M,T,W,T,F

TIME: 8:00 A.M.

SECRETARY--MONA SPAULDING

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0279	3/04	3/21		CONCUR		3/22
BROWN, BOB			PROVIDE A MONTANA TAXPAYER BILL OF RIGHTS AND OFFICE OF TAXPAYER ASSISTANCE			
SB0280	3/04	3/22		CONCUR AS AMENDED		3/23
BROWN, BOB			REVISE & STANDARDIZE PROCEDURES FOR CERTAIN TAXES AND FEES COLLECTED BY DOR			
SB0288	2/18	3/21		CONCUR		4/04
WILLIAMS, BOB			CREATE A SPECIAL REVENUE ACCOUNT FOR ASBESTOS CONTROL PROGRAMS			
SB0299	3/04	4/04		CONCUR		4/04
HALLIGAN, MIKE			REVISE INTERLOCUTORY ADJUDICATION OF APPEAL PENDING BEFORE STAB			
SB0318	4/09			CONCUR AS AMENDED		4/13
WEEDING, CECIL			SUBJECT PICKUP CAMPERS TO SAME IDENTIFICATION/TITLE PROVISIONS AS OTHER RV'S			
SB0333	3/04	4/04		CONCUR AS AMENDED		4/08
GAGE, DEL			REQUIRE MONTANA SHAREHOLDER TAXATION OF OUT-OF-STATE SUBCHAPTER S CORP			
SB0341	3/16	4/09		TABLED ON 04/12		
GAGE, DEL			ALLOW BUSINESS DEDUCTIONS FOR WHICH A FEDERAL CREDIT WAS TAKEN			
SB0345	3/11					
GAGE, DEL			REVISE DISTRIBUTION OF COAL GROSS PROCEEDS AND LGST REVENUE TO LOCAL JURIS			
SB0359	4/04	4/11		CONCUR AS AMENDED		4/13
NATHE, DENNIS			GIVE INCOME TAX CREDIT FOR CERTAIN PHYSICIANS WHO START RURAL AREA PRACTICE			
SB0370	3/11	4/05		CONCUR AS AMENDED		4/08
WATERMAN, MIGNON			ESTABLISH MONTANA DRUG ABUSE RESISTANCE EDUCATION PROGRAM (D.A.R.E.)			
SB0375	3/04	4/04		TABLED ON 04/12		
BROWN, BOB			REVISE APPRAISAL INSTRUCTION; REQUIREMENT FOR STATE TAX APPEAL BOARD MEMBER			

1 *Senate* BILL NO. *299*
 2 INTRODUCED BY *Stallins*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
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19 (iii) in cases not involving property taxes, in the
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 24 or a substantive question of law raised by the pleadings
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1 ~~a statute, or a rule~~ within 30 days of filing an answer to
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 5 response may raise any question not raised in the petition
 6 involving procedure, the admissibility of evidence, or a
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 16 party ~~shall~~ must be designated as the petitioner and every
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 19 that the issues presented involve ~~the interpretation of a~~
 20 ~~constitutional provision, a statute, or a rule~~ procedure,
 21 the admissibility of evidence, or a substantive question of
 22 law and do not require the ~~hearing of evidence to be~~
 23 ~~resolved~~ determination of questions of fact and that the
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2 regardless of whether a ruling on less than all of the
3 issues is dispositive of the case."

4 **Section 2.** Section 15-2-305, MCA, is amended to read:

5 "15-2-305. Jurisdiction to make interlocutory
6 adjudication. A district court may make an interlocutory
7 adjudication of an issue pending ~~in~~ before the state tax
8 appeal board if that issue involves ~~only-the--interpretation~~
9 ~~of---a---constitutional--provision,--statute,--or---regulation~~
10 procedure, the admissibility of evidence, or a substantive
11 question of law and does not require the ~~hearing-of-evidence~~
12 determination of a question of fact. If the petition is
13 granted, the district court shall rule on all issues
14 presented in the petition and the response, regardless of
15 whether a ruling on less than all of the issues is
16 dispositive of the case. Appeals from the ruling of the
17 court may be appealed as in other civil actions."

-End-

5

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on April 4, 1991, at 9:00 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 151

Presentation and Opening Statement by Sponsor:

SEN. ECK, Senate District 40, Bozeman, stated SB 151 will extend the medicaid eligibility to pregnant women and to infants if the family income does not exceed 185% of the federal poverty threshold. An example of a family of three is if you have two parents and the women is pregnant. It is easy to assume that if their income is less than \$19,000 a year, they will not be able to afford insurance unless their employer provides it. SB 151 would make medicaid services available.

EXECUTIVE ACTION ON SB 69

Motion/Vote: REP. FAGG MOVED SB 69 BE CONCURRED IN. Motion carried 20 to 1 with REP. STANG voting no.

EXECUTIVE ACTION ON SB 26

Motion/Vote: REP. STANG MOVED SB 26 BE CONCURRED IN. Motion carried 20 to 1 with REP. GILBERT voting no.

EXECUTIVE ACTION ON SB 288

Motion/Vote: REP. MCCARTHY MOVED SB 288 BE CONCURRED IN. Motion carried unanimously.

HEARING ON SB 299Presentation and Opening Statement by Sponsor:

REP. REAM made the opening statement for SEN. HALLIGAN, Senate District 29, Missoula, the sponsor of SB 299. He stated that the proponent would address the bill.

Proponents' Testimony:

Ward Shanahan, Attorney, Helena, said SB 299 is a bill to amend the present provisions involving interlocutory appeals from tax proceedings. This is a matter that has been wrangled over between lawyers, accountants, and DOR for many years. They got together and drafted this bill which corrects the procedural problem which will allow you to hear a tax case without having to go through a factual hearing before the state takes the appeal. He urged the committee's support.

Opponents' Testimony: NoneQuestions From Committee Members:

REP. RANEY asked Ward Shanahan what an interlocutory adjudication was. Mr. Shanahan said that when a tax proceeding is started, it begins with an informal hearing before the DOR. This is the opportunity for an informal discussion that either hardens or softens the discussion between DOR and the taxpayer. When you get to the end of that discussion, you have to go to the state Tax Appeal Board. The Tax Appeal Board is not composed of lawyers, and the courts have held that it doesn't have the right to make rulings on what statutes and regulations mean. The Tax Appeal Board hears the factual issues about property valuations. Interlocutory adjudication is a way of trying to speed up the proceedings and is called interlocutory because it takes place before a final decision on an issue.

REP. REAM asked Geralyn Driscoll, DOR, if they had any comments on this. Ms. Driscoll said that the DOR is supportive of SB 299.

REP. RANEY asked Ward Shanahan what would be the case where you would anticipate using this law. Mr. Shanahan said lets say the Legislature passes a new statute that is ambiguity to statute. The taxpayer takes one position and the DOR takes another. Rather than putting the taxpayer through the expense of an factual hearing, if you find out what the words mean, that could dispose of the issue. You take it to district court, the district court says "this is my decision on the issue". Usually with those types of issues, they have to go to the Supreme Court. So you get to the Supreme Court before you have to go through a three or four day hearing before the state Tax Appeal Board.

Closing by Sponsor:

REP. REAM made no closing statement.

EXECUTIVE ACTION ON SB 299

Motion/Vote: REP. MCCARTHY MOVED SB 299 BE CONCURRED IN. Motion carried unanimously.

HEARING ON SB 333

Presentation and Opening Statement by Sponsor:

SEN. GAGE, Senate District 5, Cutbank, stated SB 333 is an act clarifying that a Montana shareholders of a corporation that is not incorporated in Montana and has not elected to be taxed as a Montana small business corporation, is subject to the same individual income tax treatment as a Montana shareholder of a corporation that is incorporated in Montana and has not elected to be taxed as a Montana small business corporation. He turned the explanation of SB 333 over to Jeff Miller, DOR. He provided the committee with amendments prepared by DOR which would grandfather those people who have cast their investment strategies and made plans and commitments on the bases of knowing that they would not have to file a Montana return. Recognizing that that was a legitimate concern DOR prepared amendments. He stated that he had no problems with them. EXHIBIT 3

Proponents' Testimony:

Jeff Miller, DOR, stated that DOR is in support of SB 333. The bill simplifies our existing law, it promote interstate uniformity, promotes equity, and it is good tax policy. He provided the committee with testimony which explained the difference between a Sub-S corporation and a C corporation. EXHIBIT 4

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 4-4-91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. 56299
 DATE 4/4/91 SPONSOR(S) Sen. Halligan

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>David Danah</i>	<i>lawyer EPA tax exam.</i>			<i>X</i>

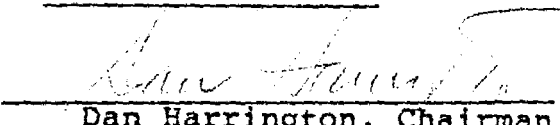
PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE STANDING COMMITTEE REPORT

April 4, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 299 (third reading copy -- blue) be concurred in.

Signed: 
Dan Harrington, Chairman

Carried by: Rep. Fagg

Noes: Boharski, Cody, R. DeBruycker, Feland, McCaffree, Measure, L. Nelson, Peck, Scott, Swysgood.

Total 10

Excused: Cobb, Ellison.

Total 2

Absent or not voting: Keller, Madison.

Total 2

SB 299 - Representative Fagg moved SB 299 be concurred in. Motion carried as follows:

Ayes: Bachini, Bardanouve, Barnett, Barnhart, Beck, Becker, Benedict, Bergsagel, Boharski, Bradley, Brooke, D. Brown, J. Brown, Clark, Cocchiarella, Cody, Connelly, Cromley, Daily, Darko, Davis, R. DeBruycker, Dolezal, Dowell, Driscoll, Elliott, Ellis, Fagg, Forrester, Foster, Galvin, Gervais, Gilbert, Gould, Grady, Grinde, S. J. Hansen, H. S. Hanson, M. Hanson, Harrington, Hayne, Hoffman, J. Johnson, R. Johnson, Kadas, Kasten, Keller, Kilpatrick, Knox, Larson, Lee, Madison, McCarthy, McCulloch, Measure, Menahan, Mercer, Messmore, L. Nelson, T. Nelson, Nisbet, O'Keefe, Pavlovich, Peck, Peterson, Quilici, Raney, Ream, J. Rice, S. Rice, Russell, Schye, Scott, Simpkins, Southworth, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swysgood, Thoft, Thomas, Toole, Tunby, Wallin, Wanzenried, Whalen, Wyatt, Zook, Mr. Speaker.

Total 92

Noes: Cohen, J. DeBruycker, Feland, McCaffree.

Total 4

Excused: Cobb, Ellison.

Total 2

Absent or not voting: Kimberley, Phillips.

Total 2

SB 333 - Representative Stang moved SB 333 be concurred in. Motion carried as follows:

Ayes: Bachini, Bardanouve, Barnett, Barnhart, Beck, Becker, Benedict, Bergsagel, Boharski, Bradley, Brooke, D. Brown, J. Brown, Clark, Cocchiarella, Cohen, Connelly, Cromley, Daily, Darko, Davis, J. DeBruycker, R. DeBruycker, Dolezal, Dowell, Driscoll, Elliott, Ellis, Fagg, Feland, Forrester, Foster, Galvin, Gervais, Gilbert, Gould, Grady, Grinde, S. J. Hansen, H. S. Hanson, M. Hanson, Harrington, Hayne, Hoffman, J. Johnson, R. Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knox, Larson, Lee, Madison, McCaffree, McCarthy, McCulloch, Measure, Menahan, Mercer, Messmore, L. Nelson, T. Nelson, Nisbet, O'Keefe, Pavlovich, Peterson, Phillips, Quilici, Raney, Ream, J. Rice, S. Rice, Russell, Schye, Scott, Simpkins, Southworth, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swysgood, Thoft, Thomas, Toole, Tunby, Wallin, Wanzenried, Whalen, Wyatt, Zook, Mr. Speaker.

Total 96

Excused: Lee, Thoft.

Total 2

Absent or not voting: None.

Total 0

SB 299 concurred in as follows:

Ayes: Bachini, Bardanouve, Barnett, Barnhart, Beck, Becker, Benedict, Bergsagel, Bradley, Brooke, D. Brown, J. Brown, Clark, Cobb, Cocchiarella, Cody, Cohen, Connelly, Cromley, Daily, Darko, Davis, R. DeBruycker, Dolezal, Dowell, Driscoll, Elliott, Ellis, Ellison, Fagg, Feland, Forrester, Foster, Galvin, Gervais, Gilbert, Gould, Grady, Grinde, S. J. Hansen, H. S. Hanson, M. Hanson, Harrington, Hayne, Hoffman, J. Johnson, R. Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knox, Larson, Madison, McCarthy, McCulloch, Measure, Menahan, Mercer, Messmore, L. Nelson, T. Nelson, Nisbet, O'Keefe, Pavlovich, Peck, Peterson, Phillips, Quilici, Raney, Ream, J. Rice, S. Rice, Russell, Schye, Scott, Simpkins, Southworth, Spring, Squires, Stang, Stepler, Stickney, Strizich, Swysgood, Thomas, Toole, Tunby, Wallin, Wanzenried, Whalen, Wyatt, Zook, Mr. Speaker.
Total 95

Noes: Boharski, J. DeBruycker, McCaffree.

Total 3

Excused: Lee, Thoft.

Total 2

Absent or not voting: None.

Total 0

SB 333 concurred in as follows:

Ayes: Bachini, Bardanouve, Barnett, Barnhart, Beck, Becker, Benedict, Bergsagel, Boharski, Bradley, Brooke, D. Brown, J. Brown, Clark, Cobb, Cocchiarella, Cody, Cohen, Connelly, Cromley, Daily, Davis, J. DeBruycker, R. DeBruycker, Dolezal, Dowell, Driscoll, Elliott, Ellis, Ellison, Fagg, Forrester, Foster, Galvin, Gervais, Gilbert, Gould, Grady, Grinde, S. J. Hansen, H. S. Hanson, M. Hanson, Harrington, Hayne, Hoffman, J. Johnson, R. Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knox, Larson, Madison, McCaffree, McCarthy, McCulloch, Measure, Menahan, Mercer, Messmore, L. Nelson, T. Nelson, Nisbet, O'Keefe, Pavlovich, Peterson, Phillips, Quilici, Raney, Ream, J. Rice, S. Rice, Russell, Schye, Scott, Southworth, Spring, Squires, Stang, Stepler, Stickney, Strizich, Swysgood, Thomas, Toole, Tunby, Wallin, Wanzenried, Whalen, Wyatt, Zook, Mr. Speaker.
Total 94

Noes: Peck.

Total 1

Excused: Lee, Thoft.

Total 2

SENATE BILL NO. 299

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PROCEDURE FOR AN INTERLOCUTORY ADJUDICATION OF AN APPEAL PENDING BEFORE THE STATE TAX APPEAL BOARD; AND AMENDING SECTIONS 15-2-304 AND 15-2-305, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-2-304, MCA, is amended to read:

"15-2-304. Petition for interlocutory adjudication.

(1) (a) Either party, within 30 days of the filing of an answer to an appeal before the state tax appeal board, may file a petition for an interlocutory adjudication under 15-2-305. The petition may be filed with the district court:

(i) in the first judicial district;

(ii) in the county in which the taxable property is located; or

(iii) in cases not involving property taxes, in the county where the taxpayer resides or has his principal place of business in the state.

(b) The petition must may raise all--questions any question involving procedure, the admissibility of evidence, or a substantive question of law raised by the pleadings involving the interpretation of a constitutional--provision,

a--statute,--or-a-rule within 30 days of filing an answer to the appeal with the state tax appeal board.

(c) A nonpetitioning party shall respond to the petition within 30 days after service of the petition. The response may raise any question not raised in the petition involving procedure, the admissibility of evidence, or a substantive question of law.

(2) After a proceeding has commenced before the state tax appeal board the 30-day period specified in subsection (1)(b) but before arguments have been heard, the parties to the proceeding may jointly petition a district court to make an interlocutory adjudication as provided under 15-2-305. A petition for such an adjudication shall must be signed by each party to the proceeding.

(3) In a petition under subsection (1) or (2), one party shall must be designated as the petitioner and every other party shall must be designated a respondent. The court may in its discretion grant such a petition if it appears that the issues presented involve the--interpretation--of--a constitutional--provision,--a statute,--or-a-rule procedure, the admissibility of evidence, or a substantive question of law and do not require the hearing--of--evidence--to--be resolved determination of questions of fact and that the controversy would be more expeditiously resolved by such an adjudication. If the court grants a petition, it shall rule

1 on all issues presented in the petition and the response,
2 regardless of whether a ruling on less than all of the
3 issues is dispositive of the case."

4 **Section 2.** Section 15-2-305, MCA, is amended to read:

5 "15-2-305. Jurisdiction to make interlocutory
6 adjudication. A district court may make an interlocutory
7 adjudication of an issue pending in before the state tax
8 appeal board if that issue involves ~~only-the--interpretation~~
9 ~~of---a---constitutional--provision,--statute,--or--regulation~~
10 procedure, the admissibility of evidence, or a substantive
11 question of law and does not require the ~~hearing-of-evidence~~
12 determination of a question of fact. If the petition is
13 granted, the district court shall rule on all issues
14 presented in the petition and the response, regardless of
15 whether a ruling on less than all of the issues is
16 dispositive of the case. Appeals from the ruling of the
17 court may be appealed as in other civil actions."

-End-